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			2611	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/547,474

Applicant(s)

SANDERS, MARK

Examiner

Son P Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-73 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-73 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed July 19, 2004 have been fully considered but they are not persuasive.

Applicant argues Noritomi fails to teach or suggest determining "a priority to propagate a selected asset." This argument is respectfully traversed.

Noritomi discloses examining whether the video program specified by the copy file is to be transmitted urgently or not; when a program added and/or modified is to be transmitted urgently and earlier than the current program being copied to the second saving means, transferring to the first saving means a second copy demand for interrupting the copying of the current program and copying the program added and/or modified from the first saving means to the second saving means in response to the second copy demand (col. 2, lines 33-44; figure 11). Thus, Noritomi teaches determining a priority to propagate a selected asset (determining if the program added and/or modified has higher priority than the current program being copied).

For the reason given above, rejections of claims 1-73 are maintained as repeatedly discussed below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-5, 8-10, 12, 20-24, 26-27, 30, 32, 56-63, 66-68, 70 are rejected under 35 U.S.C. 102(e) as being anticipated by Noritomi (US 6,473,902).

Regarding claim 1, Noritomi teaches a process of propagating viewing assets (video programs) to a system of video servers (figure 1) comprising:

copying a missing portion (program in “not copied” status – figure 4) of a replica of a selected viewing asset to a target video server (cache server 5- figure 1) in response to determining that a priority to propagate the selected asset to the target server is higher than a retention value of a replica of one or more viewing assets stored on the target server (if a desired program is not save in the cache server 5, control PC 1 delivers a copy demand signal for demanding a copy of the desired program to the main server 4 for “not copied” program – col. 3, line 50+. The demanding for copy of the program is sent in order of priority – col. 5, line 50+. When the hard disk 51 in the cache server 5

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consumes up the copy area, less significant ones of the program, stored in cache server 5, are deleted to free space for new copy – col. 10, line 40+).

Regarding claim 2, Noritomi teaches the copying writes the missing portion of the replica of the selected asset onto a storage region of the target video server previously storing a portion of the replica of one or more viewing assets (control PC 1 deletes less significant ones of the program which already stored in the cache server 5 and writes new program to the cache server 5- col. 10, line 40+).

Regarding claim 3, Noritomi teaches selecting a portion of the replica of one or more viewing assets in response to the replica of one or more viewing assets having a data size at least as large as a data size of the missing portion of the selected asset (select deletion candidate to be deleted to free space that large enough to save new program- col. 10, line 55+ and figures 13-16).

Regarding claim 4, Noritomi teaches the copying the missing portion (program that is not save in cache server 5) of the replica of a selected asset includes copying the missing portion from main server 4 (figure 1).

Regarding claim 5, Noritomi teaches assigning propagate priorities of a plurality of viewing assets (assigning number, urgent, normal- figure 10);

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ranking the viewing assets according to the assigned priorities (ranking 1-15 or Urgent, normal – figure 10);

selecting the selected asset in response to the selected asset having more than a preselected minimum rank (the “not copied” programs are selected in order, the number to the top has higher priority than the number at the bottom, and is selected to copy before the number at the bottom of the file– figures 10-11 and col. 9, line 10+).

Regarding claim 8, Noritomi teaches the portion of replica of one or more viewing assets consists of replicas of asset elements belonging to one or more Elists (deletion candidate list – col. 10, line 50+).

Regarding claim 9, Noritomi discloses deletion of less significant ones of the program stored in cache server 5 (col. 10, line 55). As a result, the portion has higher priority than the deleted ones become less significant ones of the program. Thus, Noritomi teaches updating retention values of replicas of viewing assets remaining on the target server in response to the copying.

Regarding claim 10, Noritomi discloses copying video programs from main server to cache server and transmitting the video program to user (col. 4, line 30+). Apparently, the viewing assets include video files for at least one of movies, news emissions, and shopping emissions.

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Regarding claim 12, Noritomi teaches a process for propagating digital viewing assets to video servers (figure 1) comprising:

assigning to each of a plurality of viewing assets a priority to propagate the asset onto video servers (assigning number, urgent, normal- figure 10);

ranking the viewing assets based on the assigned priorities (ranking 1-15 or Urgent, normal – figure 10);

propagating one of the assets to one or more selected video servers in response to the

one of the selected asset having a preselected minimum rank (the “not copied”

programs are selected in order, the number to the top has higher priority than the

number at the bottom, and is selected to copy before the number at the bottom of the

file– figures 10-11 and col. 9, line 10+).

Regarding claim 20, Noritomi teaches a process of propagating viewing assets to a video storage, comprising:

assigning propagating priorities to viewing assets (figure 10);

constructing a table of elements deletion lists for a target video storage (construct space allocation file 124 – col. 10, line 51+ and figure 13);

selecting a group of element deletion lists from table, the group having a data size at

least as large as a data size of a portion of a replica of another asset not stored on the

target storage (select a group of programs from file 124 and delete to free space that is

large enough to store new program transmitted from main server 4- col. 10, line 40+);

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copying the portion of the replica of the another asset onto the target video storage (cache server 5- figure 1) in response to the propagation priority of the another asset being larger than a retention value of the group (copying desired program from main server 4 to cache server 5 in response to order provided in copy files – col. 11, line 50+ and figures 10-17).

Regarding claim 21, Noritomi teaches the copying writes the portion onto a region of the target video storage previously storing the group (col. 10, line 40+).

Regarding claim 22, Noritomi discloses constructing a space allocation file 124 for selection of less significant ones of the video programs stored in the hard disk 51. The controller 16 selects as a “deletion candidate” a group of the video programs which are less significant in the priority or transmitted later as defined by the copy file 123 to be deleted to free space for new copies- col. 10, line 40+). Necessarily, Noritomi teaches the selecting a group includes constructing a table listing sets of element deletion lists (space allocation file 124) with lower retention value than the propagation priority of the another asset (new copy).

Regarding claim 23, Noritomi teaches picking one of the lists having a data size at least as large as the portion of the replica of the another asset (select deletion candidate to be deleted and examine whether or not the delete area is greater than the area required for saving copies of the video programs on the hard disk 51-col. 10, line 40+).

Regarding claim 24, Noritomi discloses deletion candidate is selected according to significant in the priority- and if the space area is not enough to save the copies, additional deletion is performed (col. 10, line 40+). As a result, the table of element deletion lists (file 124) is updated in response to performing the copying.

Regarding claim 26, Noritomi teaches a process of distributing viewing assets to viewers (col. 4, lines 65-67), comprising:

assigning priorities to assets, the priority indicating priorities for distributing the associated to video server accessible to viewers (cache server 5- figure 1 and col. 3, line 40+);

selecting a video server (selecting cache server 5- col. 3, line 46+ and figure 6);

copying one of the assets onto the video server in response to determining that the priority associated with the one of the assets is greater than a retention value associated with a set replicas of viewing assets stored on the video server, the replicas occupying enough space to store the one of the one of the assets (col. 10, line 40+).

Regarding claim 27, Noritomi discloses the controller 16 selects, as a "deletion candidate" a group of the video programs with are less significant in the priority. The deletion candidate is checked and listed in the space file 124 and then deleted – col. 10, line 50+). Necessarily, the copying includes searching for one or more sets of replicas of

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asset elements to delete (searching for deletion candidate) from a table of element deletion lists (file 124).

Regarding claim 30, Noritomi teaches an interactive television system, comprising:

one of a network and a bus (figure 1);

a plurality of video servers as claimed read on cache servers 5a, 5b, 5c and main server 4 – figures 1, 6);

a control unit as claimed read on control PC 1 (figures 1, 6, 10-17 and col. 3, line 45+).

Regarding claim 32, Noritomi discloses caches server 5 transmits requested program to users in order according to playback file 121 (col. 4, line 65+). Noritomi further disclose the system comprise plurality of cache server 5 (figure 6 and col. 3, line 52+); and each cache serve has a database file, copy file and playback files (figure 6 and col. 5+).

Necessarily, the system comprises a plurality of distribution networks to provide channels for delivering viewing assets to viewer televisions, each distribution network connected to portion of the video servers.

Regarding claims 56-58, 60-61, 67-68, 70, the limitations as claimed correspond to the limitations as claimed in claims 1-5, 9-10 and 12 respectively and are analyzed as discussed in the rejections of claims 1-5, 9-10 and 12.

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Regarding claim 59, Noritomi teaches copying the missing portion from storage device (hard disk 41-figure 1).

Regarding claim 62, Noritomi teaches assigning propagating priorities to viewing assets (figure 10) with assigning comprising;

constructing a table of elements deletion lists for a target device (construct space allocation file 124 for disk 51— col. 10, line 51+ and figure 13);

selecting a group of element deletion lists from table, the group having a data size at least as large as a data size of a portion of a replica of another asset not stored on the storage of a target device (select a group of programs from file 124 and delete to free space that is large enough to store new program transmitted from main server 4- col. 10, line 40+);

Regarding claim 63, Noritomi discloses plurality of cache server 5 and video program is transmitted to particular cache server (figure 6). Necessarily, target device (target disk 51) is selected to be a target video asset device.

Regarding claim 66, Noritomi teaches the portion of a replica of one or more viewing assets includes replicas of asset elements belonging to one or more element deletion lists (figure 16).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7, 11, 25, 34-37, 39-41, 47-50, 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noritomi (US 6,473,902).

Regarding claim 7, Noritomi teaches a process as discussed in the rejection of claim 5. However, Noritomi does not specifically disclose determining local priority to have replicas of associated assets on particular video servers, the local priorities depending on the states of the particular video servers. Official Notice is taken that determining local priority for particular asset (e.g. pre-fetch particular asset to local server before off-peak time) is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art to modify Noritomi to use the well-known teaching in the art in order to reduce cost for data transmission.

Regarding claim 11, Noritomi teaches a process as discussed in the rejection of claim 1. However, Noritomi does not specifically disclose a replica of an asset element shared by replicas of two assets on the target server. Official Notice is taken that shared element for use by more than one asset is well known in the art. Therefore, it would

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have been obvious to one of ordinary skill in the art to modify Noritomi to use the well-known teaching in the art in order to save space in memory.

Regarding claim 25, the limitations as claimed correspond to the limitations as claimed in claim 11 and are analyzed as discussed with respect to the rejection of claim 11.

Regarding claims 34-37, 39-41, 47-50, the limitations as claimed are directed toward embodying the process of claims 1, 3-5, 8-9, 12, 20, 22-23, 25 respectively in "program storage media storing executable instructions". It would have been obvious to embody the procedures of Noritomi as discussed with respect to claims 1, 3-5, 8-9, 12, 20, 22-23, 25 in a "program storage media storing executable instructions" in order that the instructions could be automatically performed by a processor.

Regarding claim 65, the limitations as claimed correspond to the limitations as claimed in claim 7 and are analyzed as discussed with respect to the rejection of claim 7.

6. Claims 6, 38 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noritomi (US 6,473,902) in view of Jacobi et al. (US 6,064,980).

Regarding claim 6, Noritomi teaches a process as discussed in the rejection of claim 5. Noritomi further discloses "global priority" (priority to copy program from main server to cache server col. 9, lines 62-col. 10, line 15). However, Noritomi does not specifically

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disclose the determining the propagation priorities based at least in part of global priorities.

Jacobi teaches determining the propagation priorities based at least in part of global priorities (determining the of programs, e.g. books, movies, games, etc. col. 4, lines 9-12, displayed in startup list 64 to user based on worldwide rating of the program – startup list 64 only lists currently most popular programs- col. 6, line 66+). Therefore, it would have been obvious to one of ordinary skill in the art to modify Noritomi to use the teaching as taught by Jacobi in order to improve efficiency in services.

Regarding claim 38, the limitations as claimed are directed toward embodying the process of claim 6 in “program storage media storing executable instructions”. It would have been obvious to embody the procedures of Noritomi as discussed with respect to claim 6 in a “program storage media storing executable instructions” in order that the instructions could be automatically performed by a processor.

Regarding claim 64, the limitations as claimed correspond to the limitations as claimed in claim 6 and are analyzed as discussed with respect to the rejection of claim 6.

7. Claims 13-19, 28-29, 42-46, 51-55 and 71-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noritomi (US 6,473,902) in view of Ong (US 5,815,662).

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Regarding claim 13, Noritomi teaches a process as discussed in the rejection of claim 12. However, Noritomi does not specifically disclose assigning a viewing asset to a usage class, the usage class providing a portion of an initial value for priorities to propagate assets assigned to the class.

Ong teaches assigning a viewing asset to a usage class (priority level such as high priority, top 10, low priority –col. 4, line 18+), the usage class providing a portion of an initial value for priorities to propagate assets assigned to the class (the period of retention of data blocks in the server's memory buffer (RAM) is determined on a predictive basis using a ranking of video programs (Titles) according to popularity, such as "Top 10 Movies of the Week" maintained in a Statistical Table – col. 4, line 37+).

Therefore, it would have been obvious to one of ordinary skill in the art to modify Noritomi to use the teaching as taught by Ong in order to provide a better service.

Regarding claim 14, Ong teaches accumulating usage data on individual assets stored on the video servers (track Titles usage across time and generates a statistical table - col. 6, line 1+); Ong also discloses the chart can be built on a dynamic basis during a day or peak period of a day (col. 6, line 66+), and the system tracks Titles usage across time and generates a statistical table which represents a "Top 10" type of list and provides Priority list according to the Title usage (col. 6, line 1+). As a result, the priorities are updating to propagate the assets based on the usage data.

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Regarding claim 15, Noritomi in view of Ong teaches a process as discussed in the rejection of claim 13. Neither Noritomi nor Ong specifically discloses encoded digital video assets and encoded digital audio assets. Official Notice is taken that encoding audio and video is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art to modify Noritomi and Ong to use the well-known teaching in the art in order to reduce bandwidth required to transmit the digital data.

Regarding claim 16, Ong discloses the system tracks Title usage across time. Ong also discloses the number of requests during peak Prime Time hours (col. 6, line 1+). As a result, the usage data includes numbers of viewer requests during predetermined periods (peak Prime Time hours) and differences between numbers of viewer requests during earlier and later predetermined periods.

Regarding claim 17, Noritomi in view of Ong teaches a process as discussed in the rejection of claim 14. Ong further discloses the system tracks Title usage across time and generates a statistic table, which represents a "Top 10" type of list. Based upon this Top 10 list, it can be projected that a #1 Title will have more requests than a #30 Title (col. 6, line 1+). Necessarily, the priority to propagate a particular asset (Title) in the usage class (MOVIE) based on a difference between the usage level of the usage class and a usage level of the particular asset determined from the accumulated usage data.

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Regarding claim 18, Noritomi in view of Ong teaches a process as discussed in the rejection of claim 13. Noritomi further discloses "global priority" (priority to copy program from main server to cache server col. 9, lines 62-col. 10, line 15) and "local priority" (priority to transmit program from cache server to user (col. 8, line 65-col. 9, line 10). Furthermore, Ong discloses the "local priority" is met by the priority to transmit data from media server to users (col. 5, lines 30-65), and the system tracks Title usage across time and generates a statistic table, which represents a "Top 10" type of list. Based upon this Top 10 list, it can be projected that a #1 Title will have more requests than a #30 Title (col. 6, line 1+). Apparently, the priority to propagate the one of assets is calculated. However, neither Noritomi nor Ong specifically disclose the priority is calculated from a global priority to propagate one of the assets and local priority to propagate a replica of the asset. It would have been obvious that the priority is calculated from a global priority and local priority in order to target the data to particular destination thereby reduce cost in data transmission.

Regarding claim 19, Ong teaches streaming a replica of the copied one of the assets from the particular video server (memory of media server 10- figure 1) to a television of viewer in response to receiving a request to view the asset from the viewer (col. 4, line 44+).

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Regarding claim 28, Noritomi teaches a process as discussed in the rejection of claim 26. However, Noritomi does not specifically disclose updating the retention values in response to anticipated changes in viewer request levels for assets.

Ong discloses remove the oldest-in-time, lowest priority data block to free a section of the memory buffer if the memory is full, the period of retention of data blocks in the server's memory buffer (RAM) is determined on a predictive basis using a ranking of video programs (Titles) according to popularity, such as "Top 10 Movies of the Week" maintained in a Statistical Table (col. 4, line 20+). Necessarily, the retention value is updated in response to anticipated changes in viewer request levels for assets.

Therefore, it would have been obvious to one of ordinary skill in the art to modify Ong to use the teaching as taught by Ong in order to provide desired data to user thereby.

Regarding claim 29, Ong teaches accumulating data on usage of individual ones of the assets (Title), the updating based at least in part on the accumulated data (col. 5, line 30+).

Regarding claims 42-46, the limitations as claimed are directed toward embodying the process of claims 13-14, 16-18 respectively in "program storage media storing executable instructions". It would have been obvious to embody the procedures of Noritomi and Ong as discussed with respect to claims 14, 16-18 in a "program storage media storing executable instructions" in order that the instructions could be automatically performed by a processor.

Regarding claim 51, Noritomi teaches a process for propagating digital viewing assets to video servers (cache servers 5 – figures 1, 6), comprising:
propagating a plurality of viewing assets (video programs) to video servers based on priorities to propagate, the priorities providing a ranking of the assets (figures 10-11 and col. 5, line 50+). However, Noritomi does not specifically disclose accumulating usage data on individual ones of the assets; and updating the priorities based on the usage data.

Ong teaches accumulating usage data on individual assets stored on the video servers (track Titles usage across time and generates a statistical table -col. 6, line 1+); Ong also discloses the chart can be built on a dynamic basis during a day or peak period of a day (col. 6, line 66+), and the system tracks Titles usage across time and generates a statistical table which represents a “Top 10” type of list and provides Priority list according to the Title usage (col. 6, line 1+). As a result, the priorities are updating to propagate the assets based on the usage data. Therefore, it would have been obvious to one of ordinary skill in the art to modify Noritomi to use the teaching as taught by Ong in order to target program to user in the future thereby reduce the cost of data transmission.

Regarding claims 52-53, the limitations as claimed correspond to the limitations as claimed in claim 13 and 18 respectively and are analyzed as discussed in the rejection of claims 13 and 18.

Regarding claim 54, Noritomi in view of Ong teaches a process as discussed in the rejection of claim 53. Noritomi further discloses "global priority" (priority to copy program from main server to cache server col. 9, lines 62-col. 10, line 15). Ong further discloses a Priority List comprises program name and number of accesses (col. 6, line 20+). Necessarily, the "global priority" is based in part on a counter value, the counter value measuring usage of the selected one of the assets (number of accesses of the program name).

Regarding claim 55, Noritomi in view of Ong teaches a process as discussed in the rejection of claim 53. Noritomi further discloses "local priority" (priority to transmit program from cache server to user (col. 8, line 65-col. 9, line 10). Furthermore, Ong discloses the "local priority" is met by the priority to transmit data from media server to users (col. 5, lines 30-65). However, neither Noritomi nor Ong specifically disclose the local priority is based in part on a bandwidth for streaming the selected one of the assets from the one of the video servers to a set of viewers. Official Notice is taken that provide priority based in part on a bandwidth for provide selected signal from server to user is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Noritomi and Ong to use the well-known teaching in the art in order to data to most valuable viewers.

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Regarding claims 71-72, the limitations as claimed correspond to the limitations as claimed in claims 13-14 respectively and are analyzed as discussed with respect to the rejections of claims 13-14.

8. Claims 31, 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noritomi (US 6,473,902) in view of Gordon et al. (US 5,920,700).

Regarding claim 31, Noritomi teaches a system as discussed in the rejection of claim 30. However, Noritomi does not specifically disclose record usage data for the assets.

Gordon teaches record usage data for the assets (col. 7, line 42+). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Noritomi to use the teaching as taught by Gordon in order to allow the operator to target program to particular destination based on the usage data thereby improve efficiency in data transmission.

Regarding claim 33, Noritomi teaches a system as discussed in the rejection of claim 30. However, Noritomi does not specifically disclose accumulate usage data on viewing assets from the video servers.

Gordon teaches accumulate usage data on viewing assets (col. 7, line 42+). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention

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was made to modify Noritomi to use the teaching as taught by Gordon in order to allow the operator to target program to particular destination based on the usage data thereby improve efficiency in data transmission later.

9. Claims 69 and 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noritomi (US 6,473,902) in view of Yurt et al. (US 5,253,275).

Regarding claim 69, Noritomi teaches a process as discussed in the rejection of claim 58. However, Noritomi does not specifically disclose encoded data files.

Yurt teaches encoded data file (col. 6, line 61+). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Noritomi to use the teaching as taught by Yurt in order to reduce bandwidth used to transmit data files.

Regarding claim 73, Noritomi teaches a process as discussed in the rejection of claim 70. However, Noritomi does not specifically disclose encoded digital viewing assets and encoded digital audio assets.

Yurt teaches encoded audio and video (col. 6, line 61+). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Noritomi to use the teaching as taught by Yurt in order to reduce bandwidth used to transmit data files.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P Huynh whose telephone number is 703-305-1889. The examiner can normally be reached on 8:00-5:30.

12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher C Grant can be reached on 703-305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Son P. Huynh
January 7, 2005



HAI TRAN
PRIMARY EXAMINER